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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO.53 OF 2006

Padmakar Achhanna Shetty — Petitioner
versus
M/s.Mahadkar Construction Pvt. Ltd. and others — Respondents

Mr.T.D.Deshmukh for petitioner.
Mr.C.R.Dalvi for respondent no.1.

CORAM : A.S.OKA, J.

DATE : 28th March 2007

PC :

1. Heard counsel appearing for the parties. The petitioner is the original defendant who has taken exception to the judgement and order dated 14th January 2004 passed by the learned Civil Judge, Senior Division, Pune. The first respondent is the original plaintiff. The present petitioner applied under section 9A of the Code of Civil Procedure, 1908 for framing a preliminary issue as regards jurisdiction. Accordingly the issue was framed and same has been answered by the impugned order in favour of the first respondent.

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2. Shri Dalvi appearing for the first respondent stated that the first respondent has no objection if the impugned order is set aside and issue of jurisdiction is ordered to be considered along with all other issues. It is stated that as of today there is no application pending for appointment of Court Receiver or for temporary injunction.

3. In view of the concession made by Shri Dalvi appearing for the first respondent, by consent, the civil revision application is taken up for hearing notwithstanding an order passed by this Court on 4th April 2006.

4. As of today there is no interim application pending and written statement has already been filed. Therefore, the course suggested by the learned counsel for the first respondent can certainly be followed. No prejudice will be caused to the petitioner as the impugned order passed against him on the issue of jurisdiction will be set aside and issue of jurisdiction will be decided afresh.

5. Hence, the Civil Revision Application is

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disposed of by passing following order :-

(a) The impugned judgement and order dated 5th December 205 is quashed and set aside;

(b) Issue of jurisdiction is kept open. The Trial Court will decide the issue of jurisdiction along with other issues framed in the suit;

(c) Hearing of the suit is expedited and the Trial Court shall endeavour to decide the suit on or before 31st March 2008;

(d) All concerned to act on an ordinary copy of this order duly authenticated by Registry of this Court.

(A.S.OKA, J.)